

## PART IV—REFUGEE AND IMMIGRANT EDUCATION

### Refugee Education Assistance Act of 1980

(P.L. 96–422)

AN ACT To provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indo-chinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [8 U.S.C. 1522 note]* That this Act may be cited as the “Refugee Education Assistance Act of 1980”.

## TITLE I—GENERAL PROVISIONS

### DEFINITIONS

SEC. 101. [8 U.S.C. 1522 note] As used in this Act—

(1) The terms “elementary school”, “local educational agency”, “secondary school”, “State”, and “State educational agency” have the meanings given such terms under section 14101 of the Elementary and Secondary Education Act of 1965.

(2) The term “elementary or secondary nonpublic schools” means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.<sup>1</sup>

(3) The term “eligible participant”<sup>2</sup> means any alien who—

(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act;

(C) is an applicant for asylum, or has been granted asylum, in the United States; or

(D) has fled from the alien’s country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

<sup>1</sup>Pursuant to section 2(b)(1) of Public Law 99–514, any reference to the Internal Revenue Code of 1954 shall include a reference to the Internal Revenue Code of 1986.

<sup>2</sup>Section 543(a)(2) of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35, 95 Stat. 4461) contained the following provision:

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be an eligible participant (within the meaning of section 101(3) of such Act), but only during the 36-month period beginning with the first month in which the alien entered the United States as such an entrant or otherwise first acquired such status.

but only during the 36-month beginning with the first month in which the alien entered the United States (in the case of an alien described in (A), (B), or (D)) or the month in which the alien applied for asylum (in the case of an alien described in subparagraph (C)).

(4) The term "Secretary" means the Secretary of Education.

#### AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 102. [8 U.S.C. 1522 note] (a) There are authorized to be appropriated for each of the fiscal years 1981, 1982, 1983, but only in a lump sum for all programs under this Act, subject to allocation in accordance with subsection (b), such sums as may be necessary to make payments to which State educational agencies are entitled under this Act and payments for administration under section 104.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this Act are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under titles II through IV for such year, the allocations to State educational agencies under each of such titles shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this Act for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

#### TREATMENT OF CERTAIN JURISDICTIONS

SEC. 103. [8 U.S.C. 1522 note] (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in sections 201(a), 302, and 402 in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period—

(A) for the purposes set forth in section 201(a), shall not exceed an amount equal to 1 percent of the amount authorized to be appropriated under section 201 for that period;

(B) for the purposes set forth in section 302, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 301 for that period; and

(C) for the purposes set forth in section 402, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 401 for that period.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 percent limitation, the entitle-

ment of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

#### STATE ADMINISTRATIVE COSTS

SEC. 104. [8 U.S.C. 1522 note] The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except that the total of such payments for any period shall not exceed 2 percent of the amount which that State educational agency receives for that period under this Act.

#### WITHHOLDING

SEC. 105. [8 U.S.C. 1522 note] Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any title of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under such title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such title to specified local educational agencies or other entities (in the case of funds under title IV) whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such title, or payments by the State educational agency under such title shall be limited to local educational agencies or other entities (in the case of funds under title IV) whose actions did not cause or were not involved in the failure, as the case may be.

#### CONSULTATION WITH OTHER AGENCIES

SEC. 106. [8 U.S.C. 1522 note] To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to eligible participants in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of the Act.

### TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

#### STATE ENTITLEMENTS

SEC. 201. [8 U.S.C. 1522 note] (a) The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for eligible participants enrolled in elementary or secondary public schools. Payments made under this title to any State shall be used in accordance with applications approved under section 202 for public educational services

for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State.

(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that an eligible participant assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 201(a) shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

#### APPLICATIONS

SEC. 202. [8 U.S.C. 1522 note] (a) No State educational agency shall be entitled to any payment under this title for any period un-

less that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this title will be used for the purposes set forth in section 201(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;

(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing; and

(5) provide for making such reports as the Secretary may reasonably require to carry out this title.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

#### PAYMENTS AND AUTHORIZATIONS

SEC. 203. [8 U.S.C. 1522 note] (a) The Secretary shall pay to each State educational agency having an application approved under section 202 the amount which that State is entitled to receive under this title.

(b) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated in the manner specified under section 102, to make payments under this title an amount equal to the product of—

(1) the total number of eligible participants enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made,

multiplied by

(2) \$400.

TITLE III—SPECIAL IMPACT ASSISTANCE FOR  
SUBSTANTIAL INCREASES IN ATTENDANCE

STATE ENTITLEMENTS

SEC. 301. [8 U.S.C. 1522 note] (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purpose set forth in section 302.

(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

(A) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants less than one year, multiplied by (ii) \$700;

(B) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants at least one year but not more than two years, multiplied by (ii) \$500; and

(C) the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants more than two years but not more than three years, multiplied by (ii) \$300.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of eligible participants and Indochinese refugee children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, and are receiving supplementary educational services during such period, is equal to—

(A) at least 500; or

(B) at least 5 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less. Notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assist-

ance by reason of the last sentence of section 3(b) and section 3(c)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.

(3) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available under any other Federal law to agencies or other entities for educational, or education-related, services or activities within the State because of the significant concentration of eligible participants. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(4) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 302 shall be considered to be payments under this title.

(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to eligible participants who meet the requirements of section 101(4).

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(3) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

#### USES OF FUNDS

SEC. 302. [8 U.S.C. 1522 note] (a) Payments made under this title to any State may be used in accordance with applications approved under section 303 for supplementary educational services and costs, as described under subsection (b) of this section, for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of

the State described in section 301(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) Financial assistance provided under this title shall be available to meet the costs of providing eligible participants supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

- (A) English language instruction;
- (B) other bilingual educational services; and
- (C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of eligible participants, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

#### APPLICATIONS

SEC. 303. [8 U.S.C. 1522 note] (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 302;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 301, subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for eligible participants enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational, or education-related, services or activities within the State because of a significant



concentration of eligible participants, and (B) the local educational agencies within whose districts are eligible participants provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;

(6) provide for making such reports as the Secretary may reasonably require to perform his functions under this Act; and

(7) provide assurances—

(A) that to the extent consistent with the number of eligible participants enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this paragraph and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

#### PAYMENTS

SEC. 304. [8 U.S.C. 1522 note] (a) The Secretary shall pay to each State educational agency having an application approved under section 303 the amount which that State is entitled to receive under this title.

(b) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 303(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this Act.

## TITLE IV—ADULT EDUCATION PROGRAMS

## STATE ENTITLEMENTS

SEC. 401. [8 U.S.C. 1522 note] (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1982, and for each subsequent fiscal year for the purposes of providing for the operation of adult education programs as described under section 402 for eligible participants aged 16 or older. Payments made under this title to any State shall be used in accordance with applications approved under section 403.

(b)(1) Except as provided in subsection (c) of this section, the amount of the grant to which a State educational agency is entitled under this Act, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of eligible participants aged 16 or older who are enrolled, during the period for which the determination is made, in programs of instruction referred to in section 402 which are offered within that State, other than any such refugees who are enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies; multiplied by—

(B) \$300.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term “State” does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 402 shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

## USE OF FUNDS

SEC. 402. [8 U.S.C. 1522 note] (a) Funds made available to State educational agencies under this title shall be used by such agencies to provide for programs of adult education and adult basic education to eligible participants aged 16 or older in need of such services who are not enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies. Such programs may be provided directly by the State educational agency, or such agency may make grants, or enter into contracts, with local educational agencies, and other public or private nonprofit agencies, organizations, or institutions to provide for such programs. Funds available under this title may be used for—

(1) programs of instruction of such adult refugees in basic reading and mathematics, in development and enhancement of necessary skills, and for the promotion of literacy among such refugees;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of such adult refugees, including guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or under the Vocational Education Act of 1963.<sup>1</sup>

[(b) Repealed by P.L. 105–220]

(c) The State educational agency shall provide for the use of funds made available under this title in such manner that the maximum number of eligible participants aged 16 or older residing within the State receive education under the programs of instruction described under subsection (a).

## APPLICATIONS

SEC. 403. [8 U.S.C. 1522 note] (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that payments made under this title will be used only for the purposes, and in the manner, set forth in section 402;

(2) specify the amount of reduction required under section 401(b)(2);

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the

<sup>1</sup> The amendment made by section 405(f)(5) of Public Law 105–277 (112 Stat. 2681–430) could not be executed.

entity submitting an application for such funds reasonable notice and opportunity for a hearing; and

(4) provide for making periodic reports to the Secretary evaluating the effectiveness of the payments made under this title, and such other reports as the Secretary may reasonably require to perform his functions under this Act.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

#### TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

##### AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501. [8 U.S.C. 1522 note] (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(c)(1)(A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or non-reimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment

within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(5) [Repealed by P.L. 96-424]

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term “Cuban and Haitian entrant means—

(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of removal proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of removal has not been entered.



## PART V—HOMELESS EDUCATION

### TITLE I—GENERAL PROVISIONS

#### SECTION 101. [(42 U.S.C. 11301 note)] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Stewart B. McKinney Homeless Assistance Act”.

(b) TABLE OF CONTENTS.—

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#### TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

##### Subtitle A—Adult Education for the Homeless

Sec. 701. State literacy initiatives.

##### Subtitle B—Education for Homeless Children and Youth

Sec. 721. Statement of policy.

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### TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS <sup>1</sup>

#### Subtitle A—Adult Education for the Homeless

#### SEC. 701. [42 U.S.C. 11421] STATE LITERACY INITIATIVES.

(a) GENERAL AUTHORITY.—

<sup>1</sup>Section 199(a)(5) and (b)(1) of Public Law 105–220 (112 Stat. 1058–59) made amendments to this Act as follows:

#### SEC. 199. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) \* \* \*

\* \* \* \* \*

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

\* \* \* \* \*

(b) SUBSEQUENT REPEALS.—The following provisions are repealed:

Continued

(1) GRANTS.—The Secretary of Education is authorized to make grants to State educational agencies to enable each such agency to implement, either directly or through contracts and grants, a program of literacy training and academic remediation for adult homeless individuals within the State, which program shall—

(A) include outreach activities; and

(B) be coordinated with other agencies or organizations, such as community-based organizations, nonprofit literacy-action organizations, and recipients of funds under the Adult Education Act, title II of the Job Training Partnership Act, the Youth Fair Chance program under part H of title IV of the Job Training Partnership Act, the Volunteers in Service to America program under part A of title I of the Domestic Volunteer Service Act of 1973, part C of this title, or the Job Opportunity and Basic Skills program under part F of title IV of the Social Security Act.

(2) ESTIMATES AND AMOUNTS.—The Secretary of Education, in awarding grants under this section, shall give special consideration to the estimates submitted in the application submitted under subsection (b) and make such awards in whatever amounts such Secretary determines will best serve the purposes of this section.

(b) APPLICATION.—Each State educational agency desiring to receive a grant under this section shall submit to the Secretary of Education an application at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall include an estimate of the number of homeless individuals in the State and the number of such individuals expected to be served.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the adult literacy training and academic remediation programs authorized by this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999.

(d) DEFINITION.—As used in this section, the term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau).

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(1) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

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(c) EFFECTIVE DATES.—

(1) IMMEDIATE REPEALS.—The repeals made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SUBSEQUENT REPEALS.—

(A) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—The repeal made by subsection (b)(1) shall take effect on July 1, 1999.

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## **Subtitle B—Education for Homeless Children and Youth**

### **SEC. 721. [42 U.S.C. 11431] STATEMENT OF POLICY.**

It is the policy of the Congress that—

(1) each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth;

(2) in any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, appropriate public education as provided to other children and youth;

(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment; and

(4) homeless children and youth should have access to the education and other services that such children and youth need to ensure that such children and youth have an opportunity to meet the same challenging State student performance standards to which all students are held.

### **SEC. 722. [42 U.S.C. 11432] GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.**

(a) **GENERAL AUTHORITY.**—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d), (e), (f), and (g).

(b) **APPLICATION.**—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) **ALLOCATION AND RESERVATIONS.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and section 724(c), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 to all States for that year, except that no State shall receive less than \$100,000.

(2) **RESERVATION.**—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Common-

wealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), according to their respective need for assistance under this subtitle, as determined by the Secretary.

(B)(i) The Secretary is authorized to transfer one percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act, that are consistent with the purposes of this Act.

(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

(3) DEFINITION.—As used in this subsection, the term “State” shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.

(d) ACTIVITIES.—Grants under this section shall be used—

(1) to carry out the policies set forth in section 721 in the State;

(2) to provide activities for, and services to, homeless children, including preschool-aged children, and homeless youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

(4) to prepare and carry out the State plan described in subsection (g); and

(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

(e) STATE AND LOCAL GRANTS.—

(1) IN GENERAL.—(A) Subject to subparagraph (B), if the amount allotted to the State educational agency for any fiscal year under this subtitle exceeds the amount such agency received for fiscal year 1990 under this subtitle, such agency shall provide grants to local educational agencies for purposes of section 723.

(B) The State educational agency may reserve not more than the greater of 5 percent of the amount such agency receives under this subtitle for any fiscal year, or the amount such agency received under this subtitle for fiscal year 1990, to conduct activities under subsection (f) directly or through grants or contracts.

(2) SPECIAL RULE.—If the amount allotted to a State educational agency for any fiscal year under this subtitle is less

than the amount such agency received for fiscal year 1990 under this subtitle, such agency, at such agency's discretion, may provide grants to local educational agencies in accordance with section 723 or may conduct activities under subsection (f) directly or through grants or contracts.

(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

(1) estimate the number of homeless children and youth in the State and the number of such children and youth served with assistance provided under the grants or contracts under this subtitle;

(2) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in allowing homeless children and youth to enroll in, attend, and succeed in, school;

(3) develop and carry out the State plan described in subsection (g);

(4) prepare and submit to the Secretary not later than October 1, 1997, and on October 1 of every third year thereafter, a report on the information gathered pursuant to paragraphs (1) and (2) and such additional information as the Secretary may require to carry out the Secretary's responsibilities under this subtitle;

(5) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children and youth who are preschool age, and families of such children and youth; and

(6) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youth (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth), to improve the provision of comprehensive services to homeless children and youth and their families.

(g) STATE PLAN.—

(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall describe how such children and youth are or will be given the opportunity to meet the same challenging State student performance standards all students are expected to meet, shall describe the procedures the State educational agency will use to identify such children and youth in the State and to assess their special needs, and shall—

(A) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

(B) describe programs for school personnel (including principals, attendance officers, teachers and enrollment personnel), to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

(C) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

(D) describe procedures that ensure that—

(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children; and

(ii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

(E) address problems set forth in the report provided to the Secretary under subsection (f)(4);

(F) address other problems with respect to the education of homeless children and youth, including problems caused by—

(i) transportation issues; and

(ii) enrollment delays that are caused by—

(I) immunization requirements;

(II) residency requirements;

(III) lack of birth certificates, school records, or other documentation; or

(IV) guardianship issues;

(G) demonstrate that the State educational agency and local educational agencies in the State have developed, and will review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and

(H) contain an assurance that the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

(2) COMPLIANCE.—Each plan adopted under this subsection shall also show how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (9).

(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—(A) The local educational agency of each homeless child and youth to be assisted under this subtitle shall, according to the child's or youth's best interest, either—

(i) continue the child's or youth's education in the school of origin—

(I) for the remainder of the academic year; or

(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

(ii) enroll the child or youth in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

(B) In determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply, to the extent feasible, with the request made by a parent or guardian regarding school selection.

(C) For purposes of this paragraph, the term “school of origin” means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

(D) The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents.

(4) COMPARABLE SERVICES.—Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including—

(A) transportation services;

(B) educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited-English proficiency;

(C) programs in vocational education;

(D) programs for gifted and talented students; and

(E) school meals programs.

(5) RECORDS.—Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

(B) in a manner consistent with section 444 of the General Education Provisions Act.

(6) COORDINATION.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social services agencies and other agencies or programs providing services to such children or youth and their families, including services and programs funded under the Runaway and Homeless Youth Act.

(7) LIAISON.—(A) Each local educational agency that receives assistance under this subtitle shall designate a homelessness liaison to ensure that—

(i) homeless children and youth enroll and succeed in the schools of that agency; and

(ii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the

local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services.

(B) State coordinators and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

(8) REVIEW AND REVISIONS.—Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records, and other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

(9) COORDINATION.—Where applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for children who become homeless.

**SEC. 723. [42 U.S.C. 11433] LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.**

(a) GENERAL AUTHORITY.—

(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

(2) SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other facilities. Where such services are provided through programs to homeless students on school grounds, schools may provide services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, in the same setting or classroom. To the maximum extent practicable, such services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

(1) a description of the services and programs for which assistance is sought and the problems to be addressed through the provision of such services and programs;

(2) an assurance that the local educational agency's combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made;

(3) an assurance that the applicant complies with, or will use requested funds to come into compliance with, paragraphs (3) through (9) of section 722(g); and

(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

(c) AWARDS.—

(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(g) and from amounts made available to such agency under section 726, award grants under this section to local educational agencies submitting an application under subsection (b) on the basis of the need of such agencies.

(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State plan required by section 722(g);

(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

(D) such other criteria as the agency determines appropriate.

(3) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed three years.

(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

(1) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State content standards and challenging State student performance standards the State establishes for other children or youth;

(2) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational education, and school meals programs);

(3) professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youth, the rights of such children and youth under this Act, and the specific educational needs of runaway and homeless youth;

(4) the provision of referral services to homeless children and youth for medical, dental, mental, and other health services;

(5) the provision of assistance to defray the excess cost of transportation for students pursuant to section 722(g)(4), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3);

(6) the provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged children;

(7) the provision of before- and after-school, mentoring, and summer programs for homeless children and youth in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

(8) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

(9) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

(10) the development of coordination between schools and agencies providing services to homeless children and youth, including programs funded under the Runaway and Homeless Youth Act;

(11) the provision of pupil services (including violence prevention counseling) and referrals for such services;

(12) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

(13) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

(14) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and



(15) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

**SEC. 724. [42 U.S.C. 11434] SECRETARIAL RESPONSIBILITIES.**

(a) REVIEW OF PLANS.—In reviewing the State plans submitted by the State educational agencies under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and youth relating to access to education and placement as described in such plans.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle.

(c) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

(d) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

(e) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (d), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).

(f) REPORTS.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter.

**SEC. 725. [42 U.S.C. 11434a] DEFINITIONS.**

For the purpose of this subtitle, unless otherwise stated—

(1) the term “Secretary” means the Secretary of Education; and

(2) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**SEC. 726. [42 U.S.C. 11435] AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of carrying out this subtitle, there are authorized to be appropriated \$30,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

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